HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:12434 OF 2007

Dated: 10.07.2007

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Between:

A. Subhadra

..Petitioner

And

1. The Government of A.P., rep., by its
   Principal Secretary, Municipal Administration
   and Urban Development Department,
   Secretariat, Hyderabad and others.

..Respondents.

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HONOURABLE SMT. JUSTICE T.MEENA KUMARI
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HONOURABLE SRI JUSTICE G. CHANDRAIAH

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ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the action of the 3rd respondent in demanding the Housing Loan availed by her husband along with interest thereon, as arbitrary and contrary to G.O.Ms.No.401, dated 14.11.1990 read with G.O.Ms.No.631 M.A., dated 13.12.1991 r/w G.O.Ms.No.424 M.A., dated 4.8.1994.

The petitioner herein is the applicant before the Tribunal. She filed the above O.A. seeking to declare the letter bearing No.6954/B1/2004 issued by the 2nd respondent and consequential proceedings in Roc.No.A/1078/03/1014 as against the spirit of G.O.Ms.No.401, dated 14.11.1990.

It is the case of the applicant that she is the wife of one A. Lakshmi Narayana, Junior Assistant, who availed the house-building advance sanctioned by the 3rd respondent. After the demise of the said Lakshmi Narayana, his wife filed a representation before the 3rd respondent seeking for waiver off the housing loan by relying upon G.O.Ms.No.401. But, the said representation was rejected. Questioning the same, the petitioner filed the above O.A. The tribunal having observed that the benefit in terms of G.O.Ms.No.401 cannot be extended, dismissed the O.A. Hence, the petitioner filed a review M.A.No.8 of 2007 on the ground that G.O.Ms.No.401, dated 14.11.1990 is applicable to Urban Development Authority i.e., 3rd respondent. The tribunal having observed that G.O.Ms.No.401, dated 14.11.1990 is applicable to the Government employees only, but not to that of the Urban Development Authorities and no where it is demonstrated that the Urban Development Authority has adopted this G.O., for being implemented, dismissed the review application. Having aggrieved by the same, the present writ petition is filed.

Heard the learned Counsel appearing for the petitioner and the

learned Government Pleader for Municipal Administration and Urban Development and the learned Standing Counsel for KUDA.

It is the contention of the learned Counsel for the petitioner that the petitioner is entitled for the benefit of G.O.Ms.No.401 dated 14.11.1990 and the 3rd respondent has recommended to issue the orders of waiver off the housing loan, but the tribunal has failed to consider the applicability of G.O.Ms.No.401 as well as 424 to the present case on hand and therefore, the order of the Tribunal in the O.A. as well as review application is liable to be set aside.

On the other hand, the learned Government Pleader contends that G.O.Ms.No.401 F & P (FWA & L) Department, dated 14.11.1990 is applicable to the Government employees only, but not to that of the Urban Development Authorities in pursuance of G.O.Ms.No.631 and therefore, the order of the tribunal needs no interference.

We have perused the orders of the tribunal and the entire material available on record.

Before going to deal with the merits of the case, it is pertinent to note that there is no dispute as to the applicability of G.O. Ms.No:401 in respect of the employees of the Government with regard to the waiver off the loans in case of the death of the loanees. Therefore, basing on that, the tribunal might have interpreted that the said G.O. cannot be made applicable in case of the applicant whose husband happened to work in the 3rd respondent-authority. At this stage, it is not out of place to mention that the Government had revised the above said G.O. by introducing G.O.Ms.No:424, M.A. dated 4.8.2004 whereunder it has been decided that the A.P. Ministerial Service Rules which are now applicable to the State Government employees, shall be adopted to the staff working in all the Urban Development Authorities. Since the husband of the applicant happened to be the employee of the Urban Development Authority, G.O.Ms.No:424, dated 4.8.2004, can be made applicable and if that being the case, the applicant is entitled to the waiver off the loan availed by her husband who died in service. But, the tribunal has lost sight of this fact while considering the case of the

applicant.

In the above facts and circumstances of the case coupled with G.O.Ms.No:424, We feel that the applicant is entitled to the waiver off the loan availed by her husband who died in service Therefore, We have no hesitation to hold that the orders of the tribunal, which suffer from legal infirmity, are liable to be set aside.

Accordingly, this writ petition is allowed directing the respondents to waive the outstanding amount (including interest) of the house loan availed by the husband of the applicant. Consequently, the demand notice dated 7.3.2007 issued by the 3rd respondent, is quashed.

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Justice T. Meena Kumari

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Justice G. Chandraiah

Date: 10th July, 2007
Nn/Gurc.

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:12434 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

10.07.2007